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RUEIDN/DNI WASHINGTON DC  
RHHMUNA/CDR USPACOM HONOLULU HI  
RUCNDT/USMISSION USUN NEW YORK 6578  
RHMFISS/HQ USCENTCOM MACDILL AFB FL  
RUEHGV/USMISSION GENEVA 7793  
RHHMUNA/HQ USPACOM HONOLULU HI  
RHMFISS/HQ USSOCOM MACDILL AFB FL  
RUEKJCS/JOINT STAFF WASHDC

C O N F I D E N T I A L SECTION 01 OF 03 NEW DELHI 001765

SIPDIS

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TAGS: [PGOV](#) [PHUM](#) [PREL](#) [PINR](#) [KDEM](#) [IN](#)

SUBJECT: RAJASTHAN RESOLVES STATE GUJJAR DILEMMA, PUNTING  
IT TO THE FEDS

REF: A. NEW DELHI 02636

[1](#)B. NEW DELHI 02564

[1](#)C. NEW DELHI 01442

[1](#)D. NEW DELHI 01136

Classified By: Acting PolCouns Joel Ehrendreich for reasons 1.4 (B,D)

[1](#)1. (SBU) Summary: On June 17, with the announcement of a new state reservation/quota policy, Rajasthan Chief Minister Vasundhara Raje brought an end to the 27-day agitation launched by the Gujjar community who were demanding classification as a Scheduled Tribe (ST) in order to access greater employment and education benefits. The Bharatiya Janata Party (BJP)-led Rajasthan government and the Gujjars agreed to a five percent reservation for the Gujjar community, and Raje agreed to write a letter recommending the federal government adopt Gujjars into the ST category. To not alienate and upset other caste groups, Raje announced a 14 percent quota for "economically backward upper caste members," including Brahmins, Rajputs, Vaishyas and Kshatriyas. Politically, the agreement seems to have settled the interests of all caste groups in the state, putting Raje and the BJP in a favorable position for the November 2008 state assembly elections. However, Rajasthan's affirmative action regime and Gujjar request for ST status will likely face further legislative and legal scrutiny on the national-level, which may agitate the Gujjar community beyond Rajasthan, prolonging their contentious fight for additional social and economic benefits. End summary.

Ending the Stalemate

[1](#)2. (U) On June 17, Chief Minister Vasundhara Raje and Gujjar leader Colonel Kirori Bhaishala agreed to create a new five percent quota for the Gujjar community and ended the month-long Gujjar protest, which devastated the state tourism industry and disrupted train travel/shipping throughout northern India. Since May 23, thousands of Gujjars responded to Bhaishala's call for protests until the government gave into the community's demands for inclusion in the Schedule Tribe (ST) category. Gujjars came out in force, burning buses, blocking roads, and dismantling railways. These protmsts resulted in over 40 people killed in violent

confrontations with police. The Gujjar standoff resulted in an estimated loss of over USD 700 to private and public property and business. During a joint press conference on June 18, Col. Bhaisala said the Gujjar community was satisfied with the outcome and called off further protests and apologized for inconvenience caused.

#### An Empty Promise

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13. (SBU) Under this agreement, Raje assured Gujjar leaders that she would also write a letter to the federal government recommending the community be included in the ST category. This would open up still more benefits for the Gujjar community. In reality, Raje had agreed to send such a letter based on an earlier 1999 letter, but that had not been enough in itself to placate the Gujjars. In 1999, the Congress government in Rajasthan sent a letter to the then BJP-led National Democratic Alliance (NDA) government in Delhi, recommending Gujjars inclusion in the ST category. The NDA had at that time rejected the Rajasthan state recommendation, explaining that they did not fit the constitutionally defined ST category. Raje has successfully placed the Congress-led UPA government in a difficult position by shifting responsibility for the Gujjar problem, and putting UPA in the position of ruling against a previous recommendation made by its own party.

#### A Crafty Politician

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14. (C) India Today Principal Correspondent Rohit Parihar underscored Raje's political aptitude in crafting this solution to the Gujjar problem, when "all eyes are on her," and the Congress is hoping that she will stumble so they can pick up Rajasthan in the upcoming state election in November.

In developing new reservation categories for the state, all caste groups feel that she has effectively represented their interests, despite the fact that there might be legal hurdles ahead. Furthermore, Raje is putting the Congress-led UPA government in a bind by pitching the decision to grant Gujjars ST status to Delhi, Parihar explained. According to Parihar, if the Congress-led UPA government denies Gujjars ST status, the Congress will be "vilified and Raje looks good." If the Congress-led UPA government upholds the inclusion of Gujjars as STs, Raje looks good because she is the one who crafted the solution and has "advocated" for the Gujjar community. Unfortunately, Parihar cautioned, the Gujjar scenario has created a nightmare for future governments regardless of who is in power. He warned that other small groups might see "wrecking havoc and disrupting civil life" as a means to obtain benefits for their communities.

#### Gujjars: Taking Their Grievance National

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15. (U) Gujjars have long expressed frustration with their economic, social and political situation, which underlies their demand for inclusion in the ST category. Converting to ST status is a long and drawn-out process that requires an amendment to the Indian Constitution. As a result, the Gujjar fight for ST status has dragged on at the federal level for more than 20 years (Ref B). The federal government has continually denied Gujjar requests to be added to the ST list. The federal government in 1981 and 1999 rejected Gujjar demands, noting that the Gujjars did not fit the constitutional ST definition (Ref A). In 2007, Raje created a high-level state commission that also found Gujjars ineligible for ST status, referencing the 1981 and 1999 cases of ST determination. Gujjars, however, have threatened to take their protests national, if their demands are not granted by the federal government.

Further Legal Challenges: The 9th Schedule Loophole

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¶16. (U) Rajasthan's new reservation regime will most likely face court challenges. Since the 1970's the Supreme Court capped state affirmative action reservations at 50 percent. Prior to Raje's new policy, Rajasthan had 49 percent reservations. The additional 19 percent per the June 17 agreement would increase the state's reserved category to 68 percent, well beyond Supreme Court reservation limits.

¶17. (U) The state and central government, up until 2007, utilized a section of the constitution known as the 9th Schedule to overcome legal challenges to reservation limits. Once Parliament had determined a caste group should be included in the 9th scheduled, it was beyond the purview of the judiciary, since according to the Founders of the Indian constitution, only amendments that change the fundamental character of the Constitution are open to judicial review. In 2007, when a private citizen from Tamil Nadu filed a case against the Tamil Nadu state government, whose reservation policy hit 69 percent, the Supreme Court ruled against the state for violating the limit of 50 percent reservations per state. The Supreme Court made a preliminary judgment that Tamil Nadu quotas beyond the 50 percent threshold adversely affected the "fundamental rights" of non-reservation communities, thereby opening up 9th Schedule laws to judicial review. The case is pending final judgment in the Supreme Court, and observers expect a final Court decision after summer recess.

Comment: BJP Finds a State Solution  
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¶18. (C) The Gujjar agitation posed a serious political problem for the Raje government, especially with state elections just around the corner in November. Raje appeared to be losing control of law and order in the state and any solution would likely upset other caste group -- and potential vote banks -- who did not want to share their benefits with the Gujjars. National Congress Party leaders and Bahujan Samaj Party (BSP) Uttar Pradesh Chief Minister Mayawati also criticized Raje for her inability to resolve the crisis in the state. The BJP, however, stuck to its pledge of not cutting any existing quotas to bring the Gujjars into the quota regime. By granting additional reservations to both Gujjars and upper castes, Raje appeased Gujjar demands and side-stepped potentially politically-charged protests from other social groups, including the politically important Meena and Brahmin communities. Raje's maneuver will help her in the coming elections.

Comment Continued: Problem Punted to the Feds  
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¶19. (C) We have not seen the last of this problem, which Raje has punted to the federal government. According to political analysts, Raje has addressed the "reservations challenge" for the short-term and has shifted the responsibility of determining Gujjar ST status to the national parliament. She is also dumping the issue to the federal court system to determine whether they will enforce the cap on state affirmative action programs. The courts will not decide any time soon, which allows her to go into the November election without the issue hanging around her neck. The federal government is now stuck with trying to figure out how to handle the situation, since the Gujjars have threatened to take their protests national if their demands are not met. Moreover, the Gujjar situation has potentially opened a Pandora's Box. Based on the Gujjar,s model of violence and intimidation, other caste groups may mount similar demonstrations for additional benefits. End comment.

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